November 17, 2004

EX PARTE NOTICE

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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Developing a Unified Intercarrier Compensation Regime,
CC Docket No. 01-92

Dear Ms. Dortch:

The undersigned representatives of three independent wireless carriers ("IWCs") submit for the Commission's consideration a statement of principles that, if followed, would help to ensure equitable, efficient and effective reform of the outdated intercarrier compensation ("IC") regime.[1] The undersigned IWCs have concluded that the multiple reform plans recently filed by various segments of the communications industry in the above-referenced docket do not represent any sort of industry consensus and, in particular, do not reflect the views and concerns of the independent wireless industry.[2] Instead, the ICF Plan and other proposals are weighted heavily toward wireline interests. Accordingly, the IWCs take this opportunity to provide the Commission with their perspective on the principles that should guide the Commission in crafting any further notice in this docket.

As an initial matter, the IWCs are especially concerned that certain aspects of other IC reform proposals will perpetuate the inefficiencies and inflated costs of the present compensation regime that should be the main focus of IC reform. The most obvious examples are the proposals submitted or sponsored by incumbent local exchange carriers ("ILECs"), which focus

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[1] *Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001).

[2] *See, e.g.,* letter from Gary M. Epstein, Counsel , Intercarrier Compensation Forum, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 (Oct. 5, 2004), and attachments ("ICF Plan").

on the maintenance of "revenue neutrality" and which express concerns about "revenue requirements," often in the name of sustaining universal service. This emphasis on ensuring that ILEC revenue flows under the current IC regime are preserved in any new plan renders these proposals inefficient, anticompetitive and inconsistent with both universal service and consumer welfare. Effective and equitable IC reform cannot be accomplished simply by shifting ILEC support from one inefficient compensation mechanism to another. The Commission also must use this opportunity to eliminate inefficiencies that continue to burden consumers and suppress competition.

With that in mind, the IWCs offer the following general principles to guide IC reform efforts:

1. **IC reform should generate incentives for *all* carriers to become more efficient, cost effective and competitive.** As noted by a number of commenters, the current IC regime encourages carriers to shift costs to their rivals, rather than to eliminate inefficiencies. Because any given call to an end user can be terminated only through the carrier serving that user, the current IC system provides too many carriers with an opportunity to exploit their bottleneck positions. Such exploitation takes many forms, including the refusal to accept transit traffic, the failure to recognize rate centers assigned in the Local Exchange Routing Guide, the insistence on unnecessary points of interconnection and the imposition of termination rates that exceed forward-looking costs.

2. **A single, integrated IC scheme for all traffic -- interstate, intrastate toll and local -- and for all types of carriers, irrespective of technology, including wireless carriers, should be implemented during a reasonable transition period.** The current IC regime imposes different costs for similar functions, *e.g.,* reciprocal compensation for terminating interconnected local calls and terminating access charges for terminating long distance calls using the same network facilities to perform the same function.

3. **The IC system should be non-discriminatory, technology-neutral and administratively simple.** The current regime discriminates against wireless technology by denying wireless providers compensation for performing functions for which local exchange carriers ("LECs") are compensated (*e.g.,* LECs, but not commercial mobile radio service ("CMRS") carriers, receive access charges for originating interexchange, inter-MTA calls). Similarly, all carriers should have equivalent obligations to transport traffic originated by their own customers to other interconnecting carriers. The vastly different IC regimes for different categories of traffic and carriers impose tremendous administrative and regulatory costs on the industry and the Commission.

4. **The IC system should eliminate arbitrage opportunities.** The current system encourages LECs to route CMRS-bound, intra-MTA calls through interexchange carriers in order to avoid reciprocal compensation charges and to garner access charges.

5. **IC reform should be based on true universal service considerations, not on "make whole" funds designed to replace existing revenue flows.** The goal of universal service programs is to advance the interests of *consumers* in high-cost areas by ensuring the availability of supported services at affordable rate levels. But consumers' interests will not be advanced by proposals geared to preserving revenue flows for selected carriers. Instead, the universal service components of IC reform should address directly the real universal service issues by carefully defining the services to be supported, the costs of providing the supported services, and the affordable price level. Similarly, consumers would be harmed by proposals to create large, new, non-portable funds that would impede full intermodal competition. Although short-term measures to ease the transition to a new IC system may be workable, a permanent (or long-term) revenue protection guarantee for any set of carriers is not a proper part of any IC reform plan worthy of the name.

6. **In order to advance the goals of efficiency, equity and competition, IC reform should focus on benefits to consumers, not on guaranteeing the revenues of incumbent carriers.**

Although the IWCs' primary objective is to set forth principles to guide IC reform, the above-stated principles strongly favor adoption of a bill-and-keep ("B&K") IC regime. B&K reduces the opportunity for ILECs to burden the development of competition by imposing costs on competitors and maximizes the incentives for all carriers to operate more efficiently and to minimize costs. Greater efficiency strengthens the viability of the universal service program by eliminating costs that would otherwise must be met through increases in universal service contributions. B&K also removes any incentive to choose customers selectively based on the overall direction of the customer's traffic. Finally, B&K is administratively simple, eliminating the need for carriers to measure, record and bill for interconnected traffic or for the Commission to regulate IC rates.

The IWCs respectfully request that the Commission incorporate these principles in its further notice in this docket and urge that any IC reform undertaken by the Commission be guided by them.

Pursuant to Section 1.1206 of the Commission's rules, this letter is filed with your office for inclusion in the public record of the above-referenced docket.

Sincerely,

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